

some carriers make publicly available on their own initiative¹⁸⁰ and is not overly burdensome.

64. We emphasize that our focus in this data collection is on “last mile” facilities to end-user consumers. Because we do not want this data collection to become less comprehensive over time as a consequence of technological evolution or of consumer choice among service providers using different technologies, we decide to collect information about lines (or wireless channels) in service to consumers irrespective of technology deployed in the “last mile” and irrespective of technology deployed in the network, or networks, to which the customer’s line is connected. Thus, we will collect information, on a consistent basis, that is “transparent” to developments in transmission protocols or applications that may arise during this information collection.¹⁸¹

65. We describe in more detail, below, the type of data that we believe will best further our twin goals of collecting the most useful information while subjecting respondents to the minimum burden.

3. Data on Broadband Deployment

a. Broadband Lines and Wireless Channels in Service to Consumers

66. Part I.A. of the form collects information about the total number of one-way and two-way (“full”) broadband lines and wireless channels¹⁸² that deliver in excess of 200 Kbps to a subscriber environment over the respondent’s own facilities, or over unbundled network elements (UNEs), special access lines, and other leased lines and wireless channels that the respondent has obtained from a communications service provider and equipped to provide broadband service.¹⁸³ As stated above,¹⁸⁴ by

¹⁸⁰ SBC, for example, has made a number of *ex parte* presentations in which it reports data on more aspects of local competition than we propose to collect in this Notice. See, e.g., letter with attachment titled “1998 Year-End Competition Report,” from Todd F. Silbergeld, SBC Communications Inc., to Magalie Roman Salas, Secretary, Federal Communications Commission, *In the Matter of Application by SBC Communications Inc., et al. for Provision of In-Region, InterLATA Services in Oklahoma*, CC Docket No. 97-121 (Feb. 17, 1999).

¹⁸¹ Such developments might include greater substitution of Internet Protocol (IP) and other packet-switched services for circuit-switched telecommunications, including voice telephone calls. For example, telecommunications common carriers and non-carriers might decide to deploy packet-switching equipment in their networks, over time, to replace circuit-switching equipment. Additionally, non-regulated service providers, including Internet service providers, may vigorously market services that enable their customers to conduct voice conversations with members of the general telephone-using public. More generally, consumers may change the way they communicate in response to new service offerings made possible by new applications of technology, or to changes in relative prices. A consumer might, for example, replace some voice calls with e-mail messages or “postings” to a personal page on the World Wide Web. All these communications will, however, travel over a broadband or voice grade line (or wireless channel) that connects the end-user consumer’s premises to a network or networks. It is these lines and wireless channels that are the focus of this information collection, rather than the particular protocols or applications they may support.

¹⁸² The preponderance of commenters agreed that the Commission should collect broadband data, and several commenters specifically supported the collection of data on one-way, as well as two-way, broadband lines and wireless channels. See, e.g., Bell Atlantic Comments at 6; CPI Reply Comments at 9-10; NorthPoint Comments at 3. But see NCTA Comments at 2; Omnipoint Comments at 8.

¹⁸³ As noted *supra* ¶ 25, we exclude from reporting entities that only resell broadband services, e.g., Internet service providers that only obtain DSL service from telephone companies or high speed data services from cable companies that is incorporated into a premium (higher speed) option for their Internet service.

“full” broadband we mean lines and channels with information carrying capacity¹⁸⁵ in excess of 200 Kbps in both directions simultaneously.¹⁸⁶ We also require data on “one-way” broadband services (*i.e.*, services with greater than 200 Kbps information carrying capacity in one direction, but not both) because they offer significant benefits to consumers as compared to traditional voice grade lines.¹⁸⁷ We decline commenter suggestions that we adopt alternative definitions of one-way broadband or full broadband.¹⁸⁸ We do not seek to revisit our definition of advanced telecommunications capability in this proceeding, and we decide to focus this information collection on the one-way and full-broadband services that support an information carrying capacity that is based on our current definition.

67. We conclude that, as a central part of our inquiry into the deployment of broadband services, we must require respondents to report information about the types of facilities used to provide these services. Thus, we require reporting entities to break down the total number of broadband lines and wireless channels into mutually exclusive categories defined by the distribution technology to the subscriber environment:¹⁸⁹ asymmetric xDSL services; other traditional wireline services including symmetric xDSL services;¹⁹⁰ coaxial cable carrier systems (including hybrid fiber-coaxial systems); optical carrier (SONET) to the customer premises; satellite; terrestrial fixed wireless service including services provided over unlicensed spectrum; terrestrial mobile wireless service; and all other technologies, such as distribution over electric power lines. Collecting this information will allow us to determine how advanced telecommunications services are being delivered.

(Continued from previous page)

¹⁸⁴ See *supra* ¶ 22.

¹⁸⁵ For purposes of this information collection, the information carrying capacity of a line or wireless circuit is the customer's authorized maximum usage (“speed”) on that line or wireless circuit.

¹⁸⁶ While a “full” broadband line or wireless channel must have information carrying capacity in excess of 200 Kbps in each direction, it need not be equally “fast” in each direction.

¹⁸⁷ According to C.E. Unterberg, Towbin, *Hughes Electronics (GMH)*, Jan. 27, 2000, DirecPC, a provider of satellite-based transmission service that has relied on a telephone return link, “currently has 100,000 subscribers and is having difficulty growing” and little information is now available on the planned two-way service (expected to cost \$50/month with rates of 400 Kbps down and 120-200 Kbps up; planned 4Q2000 product launch). Also, some ADSL service offerings that do not provide more than 200 Kbps in both directions may be attractive to residential and small business consumers. Our particular interest in the consumer and small business segment of the market for broadband services, and our view that it has been slow to develop in comparison to the large business market segment, are discussed in *First Advanced Telecommunications Report*, ¶¶ 28-33, 45-52. See also *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Third Report and Order, FCC 99-355, CC Docket No. 98-147, ¶ 35 (rel. Dec. 9, 1999).

¹⁸⁸ See, *e.g.*, SBC Comments at 2 (include technologies and speeds above voice grade (56 Kbps/64 Kbps), while excluding ISDN or Digiline-type technologies); MediaOne Comments at 11.

¹⁸⁹ By subscriber environment we mean the subscriber or end-user premises.

¹⁹⁰ Part I of the form collects data on broadband services deployment, not on high-capacity facilities (or portions of facilities) that are “channelized” to provide voice grade telephony service. Therefore, if a high-capacity facility (or portion of a high-capacity facility) is being used to provide voice grade telephony service to end users, the number of DS0 circuits that can be provided over that high-capacity facility (or portion of facility) will be reported only in Part II of the form, which collects local competition data.

68. We also conclude that we must require respondents to report certain additional information – specifically, the percentages of reported lines that are used in certain ways – to assist us in monitoring the evolving structure of the broadband services market. We do not require respondents to calculate these percentages, which are discussed further below, based on precise counts performed solely for this information collection. Rather, respondents may report good faith estimates, within a margin of plus or minus five percentage points, based on the best information that is available. However, if precise disaggregated counts of broadband lines and wireless channels do exist for another purpose, we require the respondent to use that information to calculate the percentage breakouts we require to be reported.

69. We decide that we should collect, for each of the technology categories specified in Part I.A. of the form, information about the portion of total broadband lines serving residential and small business customers as a group. We understand that many broadband providers will not routinely keep records by type of customer (*e.g.*, residential customer; small business; larger business).¹⁹¹ Also, we expect that broadband providers that do distinguish among types of customers may not use uniform criteria to do so. For example, a broadband services provider operating in towns and smaller cities might use a threshold (*e.g.*, a particular number of broadband lines or wireless channels; a particular level of monthly or annual expenditures on broadband services) to distinguish between small and medium-size businesses that is different from the threshold that a broadband services provider operating in large cities would use. We wish to avoid inconsistencies in the reported data that might result from such differences among broadband services providers and to obtain, nevertheless, an indicator of broadband services deployment to residential and small business customers. We believe that broadband services providers will develop, in the normal course of business, an insight into the characteristics, needs, and service preferences of end-user customers and will come to understand, in particular, which types of broadband services are purchased *primarily* by residential customers.¹⁹² We therefore require respondents to consider, for purposes of this information collection, the percent of total broadband lines and wireless channels used by residential and small business customers, as a group, to be synonymous with the percent of total broadband lines and wireless channels used to deliver those broadband service offerings that are, in the judgment of the respondent,¹⁹³ used *primarily* by residential consumers.

70. We would like to go further and track more precisely broadband deployment to particular types of entities singled out in section 706 – in particular, elementary and secondary schools and classrooms. We nevertheless conclude that, given our understanding that many broadband providers do not routinely keep records by type of customer, the burdens on respondents to identify deployment to these entities as such may be too high. Thus, to satisfy the section 706 directive concerning schools and classrooms, we will continue to monitor deployment to these groups through other means, for example, through our *Second Advanced Telecommunications NOI*.¹⁹⁴ Should we determine in the future that it

¹⁹¹ See, *e.g.*, NorthPoint Comments at 4; Sprint Comments at 1. But see CPI Reply Comments at 16.

¹⁹² LECs that offer volume discount tariffs for broadband services will report the number of lines in service under such tariffs. They will know the information carrying capacity and other characteristics of those services.

¹⁹³ As noted *supra* ¶ 68, we do not, as a general matter, expect respondents to calculate requested percentage breakouts based on exhaustive counts performed solely for this information collection.

¹⁹⁴ See *Second Advanced Telecommunications NOI*, ¶ 33. Through the *Second Advanced Telecommunications NOI*, we are making similar efforts to monitor deployment of broadband services to persons with disabilities. *Id.* at ¶¶ 31-32.

would not be burdensome for providers to report this type of data, we may expand this collection to include such information.

71. To further assist us in monitoring the evolving structure of the broadband services market, we require respondents to report the percent of total broadband lines and wireless channels that the respondent provides specifically over its own facilities. We note that we require reporting from all facilities-based providers of broadband service, which we define, for purposes of this information collection, to include providers not only using their own facilities, but also providers using UNE loops, special access lines, or other lines or wireless channels that the respondent obtains from another communications service provider and equips as broadband lines. Thus, we are asking providers to report additional detail, in one portion of the form, about the portion of total broadband lines (or wireless channels) provided over *only* their own facilities, as opposed to providing over UNE loops, special access lines, or other lines or wireless channels that the respondent obtains from a communications carrier and equips as broadband lines. For purposes of this information collection, filers will classify as “their own facilities” those that they actually own and those they obtain the right to use from other entities as dark fiber or satellite transponder capacity. This information will assist us in monitoring the extent to which respondents are fully building out their own broadband facilities, rather than substantially relying on “last mile” facilities that they obtain from other communications carriers.

72. We also require respondents to report the percent of total broadband lines and wireless channels – which, to reiterate, the respondent provides over its own facilities, or over UNE loops, special access lines, or other leased lines and wireless channels that the respondent has obtained from another communications service provider and equipped as broadband – that the respondent bills directly to end users who are the ultimate consumers of the broadband service. This information will assist us in monitoring the importance, in the retail marketplace, of value-added service providers, such as Internet service providers, and others who may choose to include telecommunications as part of the information service they provide to end users.¹⁹⁵ Because we collect this information from respondents who build or equip leased facilities to provide broadband services, we decide, as previously noted, that we do not need to require resellers of advanced telecommunications services, including Internet service providers that incorporate advanced services into information services, to report broadband data.¹⁹⁶

73. Finally, we require respondents to report two items of information about the portion of total lines and wireless channels they provide that are particularly “fast.” We decide we need this information to assist us in evaluating the evolving market for such services. We require respondents to report, specifically, the percent of broadband lines and wireless channels they provide with information carrying capacity greater than 200 Kbps in both directions, and also the percent of broadband lines and wireless

¹⁹⁵ Certain incumbent LECs are offering ADSL services under volume discount tariffs. These service offerings are designed to fit the needs of telecommunications carriers and value added service providers, such as Internet service providers, who wish to incorporate advanced services capability into their service offerings to consumers. (We have found that Internet service providers are not telecommunications carriers. *See Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Second Report and Order, FCC 99-330, CC Docket 98-147, ¶ 20 (rel. Nov. 9, 1999).) The volume sensitive service tariffs may require the bulk purchaser to provide typical retail services to the ultimate consumers, including provision of CPE and wiring to the end-user, customer service, marketing, ordering, installation, maintenance, repair, and billing and collections. *See Id.* at ¶ 15.

¹⁹⁶ If an Internet service provider owns its own facilities, then it will be subject to the same requirements to report broadband data as facilities-based carriers.

channels they provide with information carrying capacity greater than 2 Mbps in both directions.¹⁹⁷ We understand that, in future years, the appropriate definition of broadband service may change as technology improves and consumer demand grows for more features and functions from residential broadband service. We believe that services at speeds over 200 Kbps and 2 Mbps are currently available through traditional wireline offerings – though most often deployed to businesses – and we conclude that the information we require respondents to report will enable us to detect the evolution of supply and demand for such future generations of broadband.

b. Zip Codes in Which Broadband Lines and Wireless Channels are in Service

74. For the reasons previously discussed,¹⁹⁸ we direct respondents to provide a list of the five-digit Zip Codes in which customers served by the broadband lines and wireless channels reported in Part I.A. are located.¹⁹⁹ This list is to be reported in Part V of the form.²⁰⁰ We emphasize that we do not require respondents to report the number of broadband lines and wireless channels, or any other detailed information, for the individual Zip Codes on this list.

4. Data on Local Competition

a. Voice-Grade Equivalent Lines in Service to End Users by LECs

75. Part II of the form collects information from incumbent LECs and competitive LECs about the number of voice-grade equivalent²⁰¹ lines and fixed wireless channels²⁰² in service to provide local exchange or exchange access service. We also require respondents to provide information about the extent to which they use their own facilities in providing these lines or wireless channels, and the extent to which they use the facilities or services of other LECs in doing so. We emphasize that providers of mobile telephony services (including mobile telephony affiliates of LECs) do not report data in Part II, but instead report limited information about subscribers to mobile telephone service in Part III of the

¹⁹⁷ As noted *supra* n.185, for purposes of this information collection the information carrying capacity of a line or wireless circuit is the customer's authorized maximum usage for that line or wireless circuit.

¹⁹⁸ See *supra* Section IV.C. Definition of Reporting Area.

¹⁹⁹ We require respondents to list Zip Codes that correspond to geographic areas in which broadband services are actually being used by end users. The list may be based on engineering information (such as maps showing active service areas) or on billing information, such as the Zip Codes of the service addresses of actual customers.

²⁰⁰ See *supra* Section IV.C. Definition of Reporting Area (discussing the usefulness of this Zip Code data).

²⁰¹ Telephone lines terminating at most homes, and at many offices, are "voice grade" circuits. These are analog circuits having 3 to 4 kHz of bandwidth, the digital equivalent of which is a 64 Kbps circuit, or DS0. As noted *supra* n.190, higher capacity facilities can be "channelized" into DS0 circuits over which voice grade telephony service can be provided to end users. By "voice-grade equivalent lines/channels" we mean the number of DS0 lines/channels that could be delivered over the facility that terminates at the customer premises, *e.g.*, a DS1 circuit can be channelized to provide 24 DS0 circuits.

²⁰² That is, fixed wireless channels with a function similar to that of lines.

form.²⁰³

76. In Part II.A. of the form, we require reporting LECs to report the total number of voice-grade equivalent lines and fixed wireless channels they provide²⁰⁴ to end-user customers. We also require LECs to report certain percentages of that total, which are discussed below, to assist us in monitoring the evolving structure of the local services market.²⁰⁵ We do not require respondents to calculate these percentages based on precise counts performed solely for this information collection. Rather, respondents may report good faith estimates, within a margin of plus or minus five percentage points, based on the best information that is available. However, if precise disaggregated counts of voice-grade equivalent lines and wireless channels do exist for another purpose, we require the respondent to use that information to calculate the percentage breakouts we require to be reported.

77. We wish to monitor developments affecting certain broad categories of customers. Therefore, we require LECs to report the percent of total voice-grade equivalent lines they provide to residential and small business customers, which we consider, for purposes of Part II of the form, to be identified by separate billing addresses to which fewer than four lines are in service.²⁰⁶ We also wish to monitor evolving methods of competition and to avoid the double-counting of lines. We therefore require a respondent to report the percent of total voice-grade equivalent lines in service to end-user customers that it provides over its own facilities²⁰⁷ and, separately, the percent of total lines that it provides over UNE loops obtained from other LECs. We also require a respondent to report the percent of total voice-grade equivalent lines it directly provides from incumbent LEC switching centers in which competitive LECs are collocated.²⁰⁸ We conclude that the last estimate is required because we believe

²⁰³ Providers of mobile telephone service, as opposed to broadband service, also would not report data in Part I of the form.

²⁰⁴ We intend that these reported lines are lines that are billed to the end user by the LEC or by the LEC's non-carrier sales or billing agent.

²⁰⁵ As noted *supra* ¶ 68, we allow respondents to use best available data to estimate percentages, within a margin of error of plus or minus five percentage points, if they do not already collect the relevant detailed data.

²⁰⁶ That is, for purposes of this information collection, we decide to use the definition of residential and small business customers that we adopted to distinguish between the mass market and the medium and large business market in *UNE Remand Order*. See *UNE Remand Order*, ¶¶ 292-294.

²⁰⁷ Again, as stated above, we direct providers to classify as their "own facilities" those facilities that they actually own and those that they obtain the right to use from other entities as dark fiber or satellite transponder capacity.

²⁰⁸ If the respondent is an incumbent LEC, this percentage is the portion of its total voice-grade equivalent lines that the incumbent serves from its switching centers in which any competitive LEC has an operational collocation arrangement. Because at least one competitor has invested to locate at least some facilities in such incumbent switching centers – and presumably has some ability to expand its service from those switching centers – this percentage provides an indication of the extent to which the incumbent LEC's customer base is vulnerable to competitors using UNE loops as part of their competitive strategy. By contrast, the percentage reported by a competitive LEC refers to the portion of the competitive LEC's customer lines that it serves via its own equipment collocated in incumbent LEC switching centers. Because a competitive LEC may choose to use UNE loops in combination with switching and/or transport provided by an incumbent LEC (*i.e.*, without collocating its own equipment in the incumbent LEC's switching center), this percentage will not necessarily be the same as the reported percentage of lines the competitive LEC provides over UNE loops.

that local competition will be facilitated, particularly competition for residential and small business customers, if competing LECs can locate their equipment in the switching center that most directly serves the customer the carrier seeks to serve, and we therefore decide we should monitor the extent of such collocation.

78. In Part II.B. of the form, a reporting LEC will report the total number of voice-grade equivalent lines or wireless channels over which it provides voice telephone service to other telecommunications carriers for resale to end-user customers. We require a reporting LEC to break down this total into two categories: (1) lines and wireless channels provided under a Total Service Resale arrangement;²⁰⁹ and (2) lines and wireless channels provided under other resale arrangements, such as resold "centrex" services. As we required with respect to Part II.A. of the form, the reporting LEC will also report certain percentages that indicate how the resold lines are used, so as to assist us to monitor the evolving structure of the local services market.²¹⁰

79. The number of voice-grade equivalent lines and wireless channels in service to end-user consumers, reported by (incumbent and competitive) LECs in Part II.A. or Part II.B. of the form, will not include lines that the LEC uses to provide a telecommunications service to an Internet service provider and which the Internet service provider incorporates into a premium (higher speed) option for its Internet service. Rather, the LEC should report these as broadband lines in Part I of the form.

80. In Part II.C. of the form, a reporting LEC will report the total number of lines and wireless channels that it provides as UNE loops, special access lines, and private lines that connect end users to other telecommunications carriers.²¹¹ We require these data to be reported in four categories: (1) lines and wireless channels provided as UNE loops in circumstances in which the respondent does not also provide switching for that line or wireless channel; (2) lines and wireless channels provided as UNE loops in circumstances in which the respondent also provides switching for the line or wireless channel;²¹² (3) special access lines that the respondent does not provide as broadband; and (4) private lines that connect an end-user premises to a telecommunications carrier and that the respondent does not provide as broadband. For each of these four categories, we require the reporting LEC to report the structural indicators discussed above, *i.e.*, percent of lines serving residential and small business customers, *etc.* in those specified cases in which the particular item logically applies.²¹³

²⁰⁹ Total Service Resale refers to services provided pursuant to section 251(c)(4) of the 1996 Act. *See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, First Report and Order, FCC 96-325, CC Docket No. 96-98 (rel. Aug. 8, 1996) (*Local Competition Order*), ¶¶ 12, 863-864.

²¹⁰ As in Part II.A., respondents may report good faith estimates, within a margin of plus or minus five percentage points, based on the best information that is available. However, if precise disaggregated counts exists for another purpose, we require the respondent to use that information to calculate percentages. *See supra* ¶ 76.

²¹¹ Note, however, that special access and private lines provided directly to end-user customers and reported as broadband service in Part I of the form are not reported in Part II.C.

²¹² Combinations of unbundled loops, switches, and transport elements are often referred to as "the platform," or UNE-platform. *See, e.g., UNE Remand Order*, ¶ 12.

²¹³ Respondents may report good faith estimates, within a margin of plus or minus five percentage points, based on the best information that is available. However, if precise disaggregated counts exists for another purpose, we require the respondent to use that information to calculate percentages. *See supra* ¶ 76.

81. In Part II.D. of the form, a reporting LEC will report limited information about the general types of technology it uses to provide local service. The LEC will report the percent of its total voice-grade equivalent lines and wireless channels in service that terminate at the end-user consumer's premises over three types of facilities, characterized by technology: (1) technologies typically deployed by operators of cable TV systems, such as hybrid fiber-coaxial systems; (2) wireless; and (3) all other technologies, including (but not limited to) copper twisted pair.²¹⁴

82. We conclude that requiring LECs to report information about voice-grade equivalent lines and wireless channels in the detail set out in Part II of the form is necessary to obtain a reasonably complete picture of evolving local competition. For example, data reported by competitive LECs will enable us, for the first time, to analyze the degree to which these carriers serve customers over facilities that they own. Data reported by incumbent LECs will enable us to analyze the pattern of competitive LEC reliance on incumbent LEC resold services and unbundled network elements (nationwide and in any particular state) to provide local exchange and exchange access service to customers including, in particular, residential and small business customers. The accuracy and reliability of data will be enhanced, moreover, by the ability to compare data reported by incumbent LECs and by competitive LECs, and we may thereby avoid double-counting customer lines in assessing competitive market presence.

b. Zip Codes in Which Voice Grade Lines Are in Service to End Users by LECs

83. For the reasons previously discussed,²¹⁵ we require respondent LECs to provide a list of the five-digit Zip Codes in which customers served by the lines and wireless channels reported in Part II are located.²¹⁶ This list is to be reported in Part V of the form.²¹⁷ We emphasize that we do not require respondents to report the number of voice-grade equivalent lines in service, or any other detailed information, for the individual Zip Codes on this list. We also make clear that providers of mobile telephony services are not required to provide the Zip Code information in Part V of the form, because it would be particularly difficult for these providers to determine the location of their customers.

c. Voice Grade Mobile Telephony Service Subscribers

84. Part III of the form requires facilities-based mobile wireless firms to report the total number of voice telephony service subscribers served over their own systems, whether served directly or via

²¹⁴ Again, respondents may report good faith estimates, within a margin of plus or minus five percentage points, based on the best information that is available. However, if precise disaggregated counts exists for another purpose, we require the respondent to use that information to calculate percentages. *See supra* ¶ 76.

²¹⁵ *See supra* Section IV.C. Definition of Reporting Area.

²¹⁶ As was the case in Part I of the form, we require respondents to list Zip Codes that correspond to geographic areas in which local telephone services are actually being used by end users. The list may be based on engineering information (such as maps showing active service areas) or on billing information, such as the Zip Codes of the service addresses of actual customers.

²¹⁷ *See supra* Section IV.C. Definition of Reporting Area (discussing the usefulness of this Zip Code data).

resale by another entity.²¹⁸ For purposes of this information collection, respondents should consider the number of subscribers to be the number of revenue-generating active wireless telephony handsets.²¹⁹ We require respondents to report, as a single number, total subscribers to mobile telephony service provided via satellite, cellular, PCS, and other terrestrial mobile telephony services. We conclude that systematic data on the number of subscribers to voice grade mobile telephony services, when combined with publicly available information on mobile telephony rates, will provide a valuable insight into the extent that those mobile services are a competitive constraint on providers of wireline local exchange service. We also require respondents to provide a good faith estimate of the percent of total subscribers they bill directly, so as to obtain an indication of the extent to which resold service appears in the reported data.

85. Because we require reporting entities to file by state, we clarify that subscriber (*i.e.*, handset) counts should be reported based on the billing record address of the customer.²²⁰ Although we recognize that the billing address may differ from the geographic area or areas in which the mobile telephony service is principally used, we believe that this will be the administratively easiest solution for reporting carriers and that it will still provide us with a reasonably accurate understanding of the pattern of mobile telephony deployment. We note that providers of mobile telephony services may not have billing address information for prepaid subscribers. We direct mobile telephony service providers to include prepaid subscribers in their state totals by making good faith estimates. Thus, we do not require providers to track and associate prepaid subscribers with individual phone numbers assigned.

F. Confidentiality of Data

1. Background

86. In the Notice, we proposed to make available for public release all information collected pursuant to this information collection program.²²¹ Our reasoning for seeking release of the information was twofold. First, public availability allows consumers and experts the opportunity to review the data to ensure the accuracy of the information. Second, wide dissemination of the information promotes a more informed, more efficient market.²²² Therefore, it was our tentative conclusion that these factors strongly favored disclosure.²²³ We reiterated in the Notice, however, that such a determination would not preclude reporting parties from seeking confidential treatment pursuant to Commission rules.²²⁴

2. Discussion

²¹⁸ That is, we do not require mobile service resellers to report.

²¹⁹ See *supra* n.148 (concerning using the number of handsets as a proxy for the number of subscribers).

²²⁰ We reiterate that providers of mobile telephony services need not file the Zip Code data requested in Part V of the form.

²²¹ *Local Competition and Broadband Reporting Notice*, ¶75.

²²² *Id.* at ¶74.

²²³ *Id.* at ¶74.

²²⁴ *Id.* at ¶76.

87. *Overview.* For all the reasons stated in the Notice, we continue to believe that the value of this data collection is significantly enhanced by making as much information as possible available to the public. At the same time, we conclude that we can achieve this goal in a manner that ensures the non-disclosure of confidential provider-filed data. We discuss, below, our affirmative policies for handling this information and we believe that these policies will allay commenter concerns that legitimately protectible information would be released to the public. We do not, in this Order, make findings about whether the data elements requested in the reporting form would satisfy the Commission's articulated standard for non-disclosure of competitively sensitive information,²²⁵ but we do make clear that our rules for requesting non-disclosure of confidential information will be available to all filers of the FCC Form 477. Moreover, for purposes of this information collection, we take steps to simplify the procedures for requesting confidential treatment of data. Our rules for requesting non-disclosure of competitively sensitive information afford sufficient protection to providers and appropriately balance the concerns of parties submitting information with the interests of the public in obtaining access to that information. We also make clear that we will not release information that is the subject of non-disclosure requests until persons requesting confidential treatment are afforded all of the procedural protections provided by our confidentiality rules. We expect that these policies will allow us to accomplish our goal of making as much information as possible available to the public while ensuring that service providers can file data with confidence that any information found to be competitively sensitive under our rules will not be disclosed.

88. We note that several commenters express concern over the potential for competitive harm that release of the gathered data could cause and, in particular, about the ability of competitors to take the data submitted and tailor market strategies to quash nascent competition, protect areas that are being subjected to increased competition, or deploy facilities to defend strongholds.²²⁶ Again, we believe that our confidentiality rules afford appropriate protection of legitimately protectible information, but we take additional steps to clarify our existing rules for treatment of competitively-sensitive data because we expect that some of the respondents to this form may be less familiar with Commission practices. The Commission's policy on confidential treatment of information submitted pursuant to a survey or study is to "allow survey and study respondents to request confidential treatment pursuant to Section 0.459 to the extent they can show by a preponderance of the evidence a case for non-disclosure consistent with the Freedom of Information Act (FOIA)."²²⁷ Assessment of the confidentiality of the information is made on a case-by-case basis and action on confidentiality requests is routinely deferred until a request for

²²⁵ See 47 C.F.R. § 0.459(b).

²²⁶ See ALTS Comments at 12 ("The information sought by the Commission could be quite damaging when a new carrier has just entered a market and information about the number of lines or customers is released to competitors or the public...Many CLECs only offer service in a few geographic areas of a state. Therefore, the fact that the Commission may only be gathering information on a statewide basis does not necessarily negate the concerns that carriers would have with the potential release of the material."); Nextel Comments at 4 ("The information...would allow competitors to...follow the growth patterns of another CMRS carrier...and adjust their own strategies accordingly...[thus] expos[ing] carriers' business strategies to their competitors."); and AT&T Comments at 17 (stating that the information collection proposed in the Notice "would help reveal where a carrier's customers are located, how many there are, and even a carrier's capabilities.").

²²⁷ *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, Report & Order, 13 FCC Rcd. 24816, ¶57 (rel. Aug 4, 1998) (1998 Confidentiality Order). 47 C.F.R. § 0.459.

inspection is made.²²⁸

89. We also recognize that there is considerable diversity in the way that individual service providers handle the data pertaining to their operations. Indeed, it is our understanding that some providers release considerable data about the nature of their operations, while others more closely safeguard such data, including the type of data that we request in the reporting form.²²⁹ We anticipate that providers will request confidential treatment for data filed where they deem it appropriate. In these cases, and in accordance with the Commission's rules, we will honor all parties' requests for confidential treatment of information that they identify as competitively sensitive until persons requesting confidential treatment are afforded all of the procedural protections provided by our confidentiality rules.²³⁰ Moreover, in such cases, we agree with those commenters who suggest that we can aggregate much of the data -- for example, by carrier class and to the state level -- so that it does not identify the individual provider in our regularly published reports.²³¹

90. We also take an additional step to reduce provider concerns about the release of information identified as competitively sensitive by making it easier for providers to request confidential treatment of their data. In particular, we place a check-box on the first page of the FCC Form 477 that allows providers to request non-disclosure of all or portions of their submitted data without filing at this point in the process the detailed confidentiality justification required by our rules.²³² Thus, where parties seek confidential treatment, they need only check the well-marked box on the first page of the form and provide a completed and a redacted version of the form, as explained fully in the instructions to the Form 477. If the Commission receives a request for, or proposes disclosure of, the information contained in the Form 477, the provider will be notified and required to make the full showing under our rules.²³³ Given the unique nature of this data collection, these streamlined procedures for requesting non-disclosure should greatly improve the ability of smaller providers and providers that are less familiar with the Commission's rules to request confidential treatment of their data. We expect that this will lead to a greater level of compliance with this information collection and will give providers confidence that protectible data will not be published in our regular reports.

²²⁸ 1998 Confidentiality Order, ¶¶ 66-67 ("codifying the existing Commission practice of sometimes deferring action on requests for confidentiality if no request for inspection has been made" and noting that the Commission may, on its own motion, rule on requests for confidentiality).

²²⁹ See, e.g., *supra* n.39. In our voluntary survey program, moreover, we observed that incumbent LECs did not often request confidentiality over data submitted, but competitive LECs, including those incumbent LECs who had entered new markets, did request confidentiality over the data submitted.

²³⁰ Under the Commission's rules, the Commission "may defer acting on requests that materials or information submitted to the Commission be withheld from public inspection until a request for inspection has been made pursuant to § 0.460 or § 0.461." 47 C.F.R. §0.459(d)(1). In deferring action, however, the Commission honors the parties request for confidential treatment "until [it] acts on the confidentiality request and all subsequent appeal and stay proceedings have been exhausted." 47 C.F.R. §0.459(d)(1).

²³¹ ALTS Comments at 12 (suggesting provider class aggregation because even state level may reveal competitively sensitive information); CompTel Comments at 8 (suggesting either provider class or state level aggregation); MediaOne Comments at 13 ("MediaOne would prefer that any information submitted by CLECs and providers of high-speed data services be aggregated for public disclosure...on a state-by-state basis...").

²³² See 47 C.F.R. § 0.459(b).

²³³ 47 C.F.R. § 0.459.

91. *Part I: Broadband Data.* Without making a prospective decision about whether these data elements would satisfy the Commission's standard for non-disclosure, we state our intention not to publish in our publicly-available reports individual provider-filed data for the broadband (Part I) portion of the form, even where providers do not seek non-disclosure of this data.²³⁴ At this time, we do not have sufficient evidence in the record to make a universally applicable decision about the competitive sensitivity of all of the Part I Broadband information for all providers, but we do agree to aggregate this information in a way that does not identify the individual provider data in our reports because commenters have made at least an initial showing that all or most of the data filed in these sections is typically held confidential by providers of these services. Our decision not to publish individual provider submissions from the Part I Broadband section reflects the particular and limited purposes of this data collection and our desire to maximize the level of voluntary compliance with the information collection. While this is a mandatory collection, we wish to collect as much, and as accurate, information as possible about the status of broadband deployment in a short period of time. We also, as part of this information collection, encourage service providers that are below the reporting thresholds to report data on a voluntary basis. Moreover, particularly with respect to the Part I broadband data, we conclude that we can achieve substantially the same public benefits by releasing this information in an aggregated fashion without any potential risk of competitive harm on the part of respondents. Given the unique nature of this information collection, we believe that this extra step will improve compliance, thus enhancing our understanding of the broadband market, without any material diminution in value of the information collection. Thus, we agree to publish in our regular reports data from Part I of the form only once it has been aggregated, for example by provider class,²³⁵ regardless of whether parties request confidential treatment on the broadband portion of the form.²³⁶

92. *Parts II and III: Local Competition Data.* With respect to the data filed in Parts II and III of the form concerning wireline and wireless local telephone service, we will also report data in a manner that aggregates and does not identify the identity of providers where providers have requested non-disclosure of the data. We do not decide in advance to publish all of the data filed in Part II of the form in an aggregated fashion, however, because it is our experience that portions of this data are already made publicly available by the individual companies or from other sources. We note, for example, that the local competition market is characterized by incumbent firms that routinely make available their line count data, similar to that reported in Part II of the form. Similarly, competitive LECs in some states are required to submit line count data and this information is routinely made publicly available.²³⁷ We expect that such providers reporting data in Part II of the form will not request non-disclosure of data

²³⁴ Providers reporting information in these portions of the form should, as a matter of course, comply with our procedures for requesting non-disclosure of any information that they identify as confidential to protect against requests for inspection filed by members of the public.

²³⁵ For example, providers will identify the category that best describes their operations from a list that includes: cable coaxial, fiber, fixed wireless, mobile wireless, reseller, satellite, wireline local exchange carrier, or other. If the filer or any of its affiliates are an incumbent local exchange carrier, the provider must specify whether the filing covers its incumbent or non-incumbent operations.

²³⁶ Parties should, however, still request confidential treatment for this information in accordance with the Commission's rules to protect their rights as to third party requests for the data submitted.

²³⁷ See, e.g., Analysis of Local Exchange Service Competition in New York State, New York State Public Service Commission, available at www.dps.state.ny.us/telanalysis.htm (data as of Dec. 31, 1998).

that has already been made publicly available and that the Commission will be able to publish this data in our reports. Concerning the Part III mobile telephony data, we recognize that mobile telephony providers argue that state-by-state subscriber counts are not routinely made publicly available. We do not, however, have sufficient evidence to make an across-the-board finding at this time. Accordingly, providers submitting data concerning these services may check the box on Form 477 to request confidential treatment of their data, which will afford them the protection of the Commission's confidentiality rules.²³⁸

93. We emphasize that apart from publicly available information, which we anticipate reporting, we intend to publish the local competition data in our local competition reports only to the level of detail necessary to provide an understanding of how local competition is developing. We therefore agree with those commenters who suggest that we can aggregate much of the data -- for example, by carrier class and to the state level -- so that it does not identify the individual provider in our regularly published reports. This reporting approach, as well as providers' ability to request confidential treatment under our rules, should maximize the level of voluntary compliance with the information collection.

94. *Part V: Zip Code Data.* In the particular case of Zip Code data (*i.e.*, the lists of Zip Codes where service is offered), the Commission intends to report information on Zip Codes served, but it will not release the identity of specific providers in a given Zip Code. Public release of Zip Code data in this manner is appropriate, we believe, because it does not reveal information about the actual subscribership levels for any particular provider, but only indicates the presence of one or more providers in the given Zip Code. Although we think it unlikely that any provider would consider this limited release to reveal competitively sensitive information, we do not limit parties' ability to seek non-disclosure of such data under the Commission's rules.²³⁹

95. *Sharing data with State Commissions.* Finally, because we wish to maximize the value of this information collection for states, we conclude that the Chief of the Common Carrier Bureau may release the information collected under this program to the state commissions, subject to certain conditions.²⁴⁰ A state commission may view all data submitted on a carrier specific basis, by entities filing data for that commission's state, provided that the state has appropriate protections in place (which may include confidentiality agreements or designation of information as proprietary under state law) that would preclude disclosure of any confidential information. However, where state laws afford less protection than federal FOIA laws, the higher federal standard will prevail.²⁴¹ We are aware that there are two states that have "open records" statutes that may prevent the state from providing confidential

²³⁸ If the Commission receives a request for, or proposes disclosure of, the information contained in the Form 477, the provider will be notified and required to make the full showing under our rules. 47 C.F.R. § 0.459.

²³⁹ 47 C.F.R. § 0.459.

²⁴⁰ 47 C.F.R. § 0.291.

²⁴¹ See 47 U.S.C. § 410(b); see also *Amendment of Parts 0 of the Commission's Rules with Respect to the Delegation of Authority to the Chief, Common Carrier Bureau*, 104 FCC 2d. 733, n.6 (rel. Apr. 11, 1986) (In discussing the treatment of information submitted pursuant to a joint audit, the Commission stated that it would release the information it obtained to state public utilities commissions "conditional upon a requirement that state participants are willing and able to treat commercial information according to our confidentiality rules and guidelines" and that "to the extent that the FOIA imposes a higher standard of confidentiality than a particular state law, our action...require[s] participants to adhere to the higher federal standard.").

protection for sensitive provider information.²⁴² In these situations, we will work with these state commissions to enable them to obtain access to such information in a manner that addresses the state's need for this information and also protects the confidential nature of the provider's sensitive information. We anticipate that these actions will give state commissions a valuable and unique view into the state of local competition and broadband deployment in their states. In addition, we hope that this will further our goal of reducing the overall reporting burdens placed on entities in these markets by minimizing the need for additional information collection programs at the state level.

96. We conclude that these policies, taken as a whole, most effectively balance provider concerns with our broader goals for this proceeding. As stated in the Notice, by making the information available, consumers, investors, and policy makers will be better able to make informed decisions on the development of these markets. Such information has value because a better-informed marketplace promotes a more efficient marketplace. Also, by allowing public release of as much of the information as possible, associations, scholars, and others will be able to use the information in their independent analyses of Commission policies, thereby aiding the Commission in crafting regulations that address specific market problems and eliminating those regulations that have outlived their usefulness.

G. Electronic Filing

1. Background

97. In the Notice, we tentatively concluded that parties should submit information in an electronically readable format to aid Commission staff in utilizing the information more effectively.²⁴³ We also stated that in order to minimize the burden of the information collection, reporting parties should submit their information using the Excel format, in lieu of a specially developed software program.²⁴⁴ Further, we tentatively concluded that the spreadsheets that constitute the information collection would be posted at a unique location on the Common Carrier Bureau's Internet site for download.²⁴⁵ Finally, we tentatively concluded that submissions would be filed over the Internet as an attachment to an e-mail message directed to a Commission e-mail account.²⁴⁶

2. Discussion

98. We adopt the method proposed in the Notice for collection of the information through electronic filing except to modify the allowable methods of submission. Specifically, the form will be made available to reporting entities on the Common Carrier Bureau's website at <www.fcc.gov/broadband/data> and will utilize Excel 97 software, as well as other comparable spreadsheet software programs.²⁴⁷ Carriers and other entities that must comply with this requirement

²⁴² Texas and Georgia.

²⁴³ *Local Competition and Broadband Reporting Notice*, ¶¶ 77-81

²⁴⁴ *Id.* at ¶¶ 77-78.

²⁴⁵ *Id.* at ¶ 77.

²⁴⁶ *Id.* at ¶ 78.

²⁴⁷ The reporting form will be made available in Excel 97 format as well as a generic Lotus format that is compatible with other spreadsheet software such as earlier versions of Excel, Lotus 123, and Quattro Pro.

may submit their completed forms to a specified e-mail address or forward to the Commission diskette copies. Regardless of whether the reporting entity e-mails its submission or mails diskette copies, an officer of the reporting entity must submit a "Certification Statement" to the Commission attesting to the truthfulness of the data submitted.²⁴⁸ We conclude that this filing system will ensure, for both the reporting entities and the Commission, that the burdens of the program are minimized and that unnecessary expenditures for compliance are not incurred. Also, by allowing diskette submissions, reporting parties seeking confidential treatment can further ensure that the information submitted is protected.

99. By utilizing commercially available software and the Internet, the program does not impose excessive filing-specific costs on parties. We determine that, in this instance, the costs of utilizing a specialized reporting system would outweigh the benefits of such a system.²⁴⁹ Because certain smaller entities and entities not accustomed to reporting to the Commission may be asked to report under this program, we decide that the public interest is not best served by requiring carriers and other respondents to make significant investments to accommodate a specialized reporting system. Additionally, we will minimize our costs by eliminating the need to contract with data systems contractors to develop specialized software.

100. At the same time, we believe that some level of automation will be beneficial for both respondents and the Commission. By allowing respondents to complete the form electronically, added time associated with transferring data to paper is eliminated. Additionally, by using an electronic format, we will be better able to aggregate and incorporate the data into reports, as well as minimize error associated with transferring data manually from the filings. We therefore conclude that the e-mail/spreadsheet-based electronic filing system satisfies the needs of all parties and ensures that the burden of reporting is minimized.

101. As we stated in the Notice, we remain committed to making electronic filings and other electronic applications accessible to persons with disabilities to the fullest extent possible. We note that electronic filing is subject to program accessibility requirements of Section 1.1850 of our rules.²⁵⁰ In addition, Congress has revised the requirements for access by persons with disabilities to federal information technology programs in the Workforce Investment Act of 1998.²⁵¹ We recognize that, in some instances, it may be difficult for persons with disabilities to access components of the proposed

²⁴⁸ Parties must use the "Certification Statement" that is provided in the instructions to the form. See Appendix B.

²⁴⁹ For example, costs associated with training employees on a specialized software system with a single application cannot be redeployed by that employer to other tasks, whereas costs associated with training an employee on a generally applicable software system can be readily deployed to other tasks associated with the employers needs. Thus, by avoiding "form-specific" investment requirements, the information collection program minimizes the impact of the program on respondents.

²⁵⁰ See 47 C.F.R. § 1.1850.

²⁵¹ *Workforce Investment Act of 1998*, P.L. No. 105-220, 112 Stat. 936 (Aug. 7, 1998). Section 508 of the Act provides that persons with disabilities and non-disabled persons must have comparable access and ability to use technology and electronic information, and federal agencies must take steps to ensure such comparable access for persons with disabilities unless an undue burden would be imposed. If an undue burden would be imposed, the agency must provide an alternative means of access that allows for persons with disabilities to access and use the information.

electronic filing. In particular, the accessibility of forms and certain types of electronic files raises complex technical issues. However, by utilizing commercially available software, instead of specially designed software, users will be able to utilize “off the rack” software programs that assist persons with disabilities. While we will continue to work to make the program even more accessible, use of commercially available software ensures a greater level of access at this time than a Commission-developed software program.

H. Survey Modification and Termination

1. Background

102. In the Notice, we tentatively concluded that for the information collection program to remain valuable, it might be necessary to make changes to the form, content, or reporting obligations.²⁵² Further, to ensure that the information collection does not become a permanent regulatory burden, we tentatively concluded that a plan for its termination should be determined at the outset.²⁵³

2. Discussion

103. We reiterate that the purpose of this undertaking is to assist the Commission during a critical transition period in evaluating both the development of competition for local telephone services and broadband deployment and the impact of our rules on those markets. We further conclude that the rapidly changing pace and dynamics of local competition and broadband deployment will necessitate changes to this information collection program in order to ensure its continuing value. We, of course, retain our authority to modify, eliminate, or expand this information collection, as necessary. We nevertheless take additional steps to make sure that this program does not outlive its usefulness or, alternatively, fail to keep step with developments in these critical areas.

104. In particular, we adopt a five-year sunset provision, which will terminate this program unless the Commission takes affirmative steps to preserve it. By establishing a date certain from the outset, we satisfy two of our stated goals, namely ensuring that the program does not outlive its usefulness and minimizing costs associated with the program. An annual or other timed review process would necessarily require the Commission to conduct rulemaking proceedings, which would impose associated costs on both the Commission and interested parties. In contrast, by adopting a specific sunset provision, such a proceeding will only be necessary if the Commission determines that it is necessary and desirable to maintain the information collection program beyond the five years. The five-year limitation will also allow the Commission to monitor development of local telephone competition and broadband deployment during this crucial period of market development. With competition for local telephone service in its fourth year since the 1996 Act and broadband deployment in an even more nascent state, the information that will be provided can offer insight into how these markets are developing and how our rules are either aiding or hindering that development. While some commenters offer more restrictive time periods for termination, such as an annual or other timed review process,²⁵⁴

²⁵² See *Local Competition and Broadband Reporting Notice*, ¶ 82.

²⁵³ *Id.* at ¶ 83.

²⁵⁴ Bell Atlantic Comments at 11 (suggesting a review in three years with a automatic sunset in 5 years); GTE Comments at 3 (suggesting a 3 year termination); USTA Comments at 7; PCIA Comments at 11 (sunset the program after two years), and Sprint Comments at 3 (suggesting a 2 year sunset).

other commenters suggest that the program should have no predetermined sunset provision.²⁵⁵ We determine that a program of shorter duration than five years would not allow the Commission to accurately assess the development of these markets over a long enough period of time to make meaningful use of the information. We note that adoption of a five-year sunset provision neither forecloses parties nor the Commission from seeking an earlier termination of the program. Parties retain their right to petition the Commission for review of the program and the Commission can raise the matter *sua sponte*.²⁵⁶ As noted by several commenters, the Commission will, of course, conduct a review of all its rules that apply to the operations or activities of any provider of telecommunications service pursuant to the biennial regulatory review process.²⁵⁷

I. Outreach and Enforcement

105. The actions we take here will benefit not only the Commission and other policy makers, but also the firms that participate in this data gathering program. We believe that timely and reliable information about the state of broadband deployment and competition for local telephone services will enable us to evaluate the nature and impact of our existing regulation and to eliminate or modify regulation where warranted. Similarly, we believe that analysis of the data collected through this requirement may form the basis for the Commission to refrain from regulating nascent markets and to rely, instead, on market forces. To this end, we stress it is our intention to ensure that all firms subject to this reporting requirement participate. We note that the Commission has authority to collect this information pursuant to sections 4(i), 201, 218-220, 251-252, 303(r), 332, 403 of the Act,²⁵⁸ as well as section 706 of the Telecommunications Act of 1996.²⁵⁹ As stated in the Notice, although the 1996 Act did not confer on us plenary jurisdiction to regulate local exchange service, it did task us with important roles in opening up all telecommunications markets to competition.²⁶⁰ We conclude that this data gathering falls squarely within the ambit of this authority. Moreover, we note that the Commission has authority pursuant to sections 502 and 503 of the Act to enforce compliance with its rules by fine or forfeiture.²⁶¹

106. Beyond those firms that are required to report pursuant to this data collection, we also invite providers of local telephone service and broadband service to voluntarily complete and file the new FCC Form 477 even if they do not meet the thresholds for mandatory reporting. Particularly in the case of broadband reporting, we believe that the thresholds for mandatory reporting are set so that we will be able to detect at an early stage deployment by committed market participants. We nevertheless believe that there may be other, smaller providers that, were they to submit data on a voluntary basis, would significantly enhance our understanding of broadband deployment especially to niche markets. In our

²⁵⁵ Telecommunications Resellers Association Reply Comments at 7.

²⁵⁶ 47 U.S.C. § 161; 47 C.F.R. § 1.1.

²⁵⁷ 47 U.S.C. § 161.

²⁵⁸ 47 U.S.C. §§ 154 (i), 201, 218-220, 251-252, 303(r), 332, 403.

²⁵⁹ 47 U.S.C. § 157 nt.

²⁶⁰ *AT&T Corp. v. Iowa Utilities Board*, 119 S. Ct. 721 (1999).

²⁶¹ 47 U.S.C. §§ 502, 503.

view, the more firms that report data to us, the more complete our understanding of broadband deployment and competition for local telephone services will be. As noted earlier, such an understanding is critical to our ability to assess developing markets and avoid unnecessary regulation.

107. We also intend to conduct industry outreach sessions to promote awareness of this mandatory reporting requirement, encourage participation by exempt firms, and assist companies in completing the new FCC Form 477. These fora will be conducted in coordination with various industry associations in advance of the first filing of the form. We expect that these outreach efforts should increase compliance and minimize the burden on the broadband and local telephone service providers that will report this form for the first time on May 15, 2000.

V. PROCEDURAL MATTERS

A. Final Paperwork Reduction Act Analysis

108. As required by the Paperwork Reduction Act of 1995, the *Local Competition and Broadband Deployment Notice* invited the general public and the Office of Management and Budget (OMB) to comment on the proposed information collection requirements contained in the Notice. On December 22, 1999, OMB approved the proposed information collection, as submitted to OMB.²⁶² In this Report and Order, we adopt the proposed Local Competition and Broadband Reporting form, but modify our proposal to reflect comments received from OMB and other commenters. The revised Local Competition and Broadband Reporting form is subject to approval by OMB.

109. As described above, the form that we adopt in this Order reflects our efforts to collect the information necessary to monitor the development of local competition and broadband to fulfill our statutory directives, while reducing to the lowest possible level the burden on those entities that must file the form. The categories of information requested from reporting entities ask for information that should be readily available to the reporting entities and should not require significant resources to collect.

B. Final Regulatory Flexibility Act Analysis

110. As required by the Regulatory Flexibility Act (RFA),²⁶³ the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this Order. The FRFA is set forth as Appendix C. The Office of Public Affairs, Reference Operations Division, will send a copy of this Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

VI. ORDERING CLAUSES

111. Accordingly, IT IS ORDERED that, pursuant to sections 1-5, 10, 11, 201-205, 215, 218-220, 251-271, 303(r), 332, 403, 502, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-155, 160, 161, 201-205, 215, 218-220, 251-271, 303(r), 332, 403, 502, and 503 and pursuant to

²⁶² See Letter from Donald R. Arbuckle, Office of Management and Budget, to Judy Boley, Federal Communications Commission (Dec. 22, 1999).

²⁶³ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

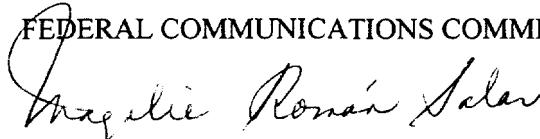
section 706 of the Telecommunications Act of 1996, 47 U.S.C. § 157 nt, this ORDER, with all attachments, is hereby ADOPTED.

112. IT IS FURTHER ORDERED that the requirements and regulations established in this Order shall become effective upon approval by OMB of the modified information collection requirements adopted herein, but no sooner than thirty days after publication in the Federal Register. The Commission shall place a notice in the Federal Register announcing the effective date of the requirements and regulations adopted herein.

113. IT IS FURTHER ORDERED that providers subject to the requirements and regulation established in this order shall complete and file the Local Competition and Broadband Reporting Form (FCC Form 477) no later than May 15, 2000 and semi-annually thereafter.

114. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this Local Competition and Broadband Reporting Requirement Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas
Secretary